THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

–

WRIT PETITION NO : 9179 of 1996

Dated: 05-10-2005

Between:

Datla Venkata Subrahmanyam Rao and another.

..Petitioners.

And

The District Collector, West Godavari District and others..

..Respondents.

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 9179 of 1996

ORDER:

No representation on behalf of the petitioners, who filed this petition seeking a writ of mandamus against the respondents preventing their converting ac. 1.25 cents in Sy.No.211/2 and ac.6.10 cents in Sy.No.212/2 of Dosapadu village, West Godavari District into fish tanks on the ground that they, being the owners of the said land, have absolute right to use the same as per their wish and so, respondents have no right to prevent them from digging fish tanks in their lands.

In the counter-affidavit of the third respondent filed on behalf of the respondents it is alleged that inasmuch as petitioners did not comply with the mandatory provisions of BSO 7(iii) and since digging of fish tanks would also cause environmental problems, petitioners are not entitled to the relief sought.

As per BSO 7(iii), if private lands have to be converted as non-agricultural fish tanks the owner has to obtain prior permission from the Collector after obtaining the technical opinion of the Irrigation Department. Petitioners admittedly did not obtain such opinion and permission. Petitioners draw water from the Government canal for the tanks dug in their fields. It is well known that water drawn from Government canal can be used only for the purpose of cultivation but not for fish tanks. So permission from revenue officials is mandatory. Since petitioners did not even allege that they have sought the permission of revenue officials for digging fish tanks, obviously for commercial purpose, and since digging of fish tanks in coastal areas would also cause environmental problem, petitioners are not entitled to the relief sought for in this petition.

Hence, the writ petition is dismissed. No order as to costs.

05-10-2005

sj